

# **EXHIBIT A**

1 IN THE UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3  
4 SPENCER MEYER, individually  
5 and on behalf of those  
6 similarly situated,

7 Plaintiffs,

8 vs.

No. 1:15 Civ. 9796 (JSR)

9 TRAVIS KALANICK,

10 Defendant.

11 /

12 CONFIDENTIAL PURSUANT TO THE PROTECTIVE ORDER

13 DEPOSITION OF CRAIG CLARK

14 SAN FRANCISCO, CALIFORNIA

15 THURSDAY, JUNE 23, 2016

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21  
22 BY: ANDREA M. IGNACIO, CSR, RPR, CRR, CCRR, CLR

23 CSR LICENSE NO. 9830

24 JOB NO. 504146

1 IN THE UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

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4 SPENCER MEYER, individually  
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7 Plaintiffs,

8 vs.

No. 1:15 Civ. 9796 (JSR)

9 TRAVIS KALANICK,

10 Defendant.

11 \_\_\_\_\_/

12  
13 Deposition of Craig Clark, taken on behalf  
14 of the Plaintiff, at Gibson, Dunn & Crutcher, LLP,  
15 555 Mission Street, 30th Floor, San Francisco,  
16 California, Pursuant to Notice, before me,  
17 ANDREA M. IGNACIO, CSR, RPR, CRR, CCRR, CLR ~ CSR  
18 License No. 9830.  
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23  
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25

A P P E A R A N C E S:

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ALSO PRESENT: Martin White, Uber

Angela Padilla, Uber

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1 SAN FRANCISCO, CALIFORNIA

2 THURSDAY, JUNE 23, 2016

3 8:04 A.M.

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7 CRAIG CLARK,

8 having been sworn as a witness  
9 by the Certified Shorthand Reporter,  
10 testified as follows:

11  
12 EXAMINATION

13 BY MR. BRIODY:

14 Q Good morning, Mr. Clark.

15 A Good morning.

16 Q Can you please state your full name for the  
17 record.

18 A Craig, C-R-A-I-G, Clark, C-L-A-R-K.

19 MR. HANNA: John, before we get going, there  
20 are a couple of matters I did want to put on the  
21 record, as we did the other day.

22 First of all, with respect to the Ergo  
23 matter, Uber Technologies has asserted certain  
24 privileges and positions in this litigation with  
25 regard to various documents that were submitted to the

1 investigator, This is who I'm working for, and this is  
2 what my investigation is about?

3 MR. HANNA: Objection to the form of the  
4 question.

5 THE WITNESS: My expectations -- again, so  
6 I -- you've -- you've kind of asked me generally and  
7 specifically. So I'm not trying to be -- you know,  
8 I'm just trying to get to the core of your -- answer  
9 the question you're asking.

10 And that is -- so, are you talking about this  
11 specific investigation, what my expectations are now,  
12 or when?

13 MR. BRIODY: Q. I'm asking for right now.  
14 Let's go with right now.

15 A Okay. I would expect all vendors, including  
16 Ergo, to follow the rules, the representations that  
17 they make to us, and to proceed professionally and  
18 ethically within the law.

19 I would not -- if you -- I would -- I would  
20 not sanction or -- nor would I engage in deceiving  
21 sources, if this is what you're asking me.

22 Q Okay. And so you believe -- did anybody, to  
23 your knowledge -- having been involved in this and  
24 working with Mr. Henley, did anybody give any thought  
25 to how Ergo was reaching out to the sources set forth

1 in this report?

2 MR. HANNA: Objection to the form of the  
3 question.

4 THE WITNESS: I don't know who gave thought  
5 to what. I can't know.

6 MR. BRIODY: Okay.

7 Q And do you have -- generally speaking, based  
8 on your past and involvement -- and involvement in  
9 investigations and retaining investigators, do you  
10 have an expectation that, when you retain an  
11 investigator to conduct an investigation, that the  
12 investigator will tell people who the client is and  
13 what the investigation is about?

14 A So, I would expect -- so we're -- we're  
15 talking generally here now; right?

16 Q Uh-huh.

17 A Again, I would expect the vendor to follow  
18 the rules, to act professionally, and within the --  
19 within the bounds of the law.

20 Q What do you think about -- if someone told  
21 you -- if Ergo told you, "Hey, we're going to go out  
22 and we're going to tell these people an untrue story  
23 about why we're looking for this information. Is that  
24 okay, Mr. Clark?"

25 Is that okay?

1 only one I've spoken with directly. Other people may  
2 have been on the call, but I can't recall who. I'm  
3 not sure if it was Matthew or somebody else.

4 Q During those conversations, did you discuss  
5 the scope of work and the project that Ergo had been  
6 retained to perform for Uber with respect to  
7 Mr. Moneyhon?

8 A Yes.

9 Q And what -- what did -- what was discussed  
10 with respect to that?

11 A Again, my -- my focus was to ensure that  
12 they -- to get the details of the -- who they spoke  
13 to, when, and to ensure that any contact had ceased.

14 Q Did you discuss with Ergo the manner in which  
15 Ergo went out and contacted sources for the report  
16 that it submitted on January 19th?

17 A I don't recall that.

18 Q All right.

19 I want to bring your attention to the last  
20 paragraph of the e-mail that Mr. Egeland wrote you.  
21 He writes:

22 "I do want to assure you that we have  
23 safeguards in place (and training) that should have  
24 prevented our investigator from going beyond the scope  
25 of the project, or sending Ergo-identified questions



1 to a potential interviewee."

2 Let me stop right there.

3 Did you discuss with Mr. Egeland or  
4 Mr. Moneyhon, before this e-mail was sent, an Ergo  
5 investigator going beyond the scope of the project?

6 A I don't recall specifically.

7 Q When you received this e-mail from  
8 Mr. Egeland, what did you understand him to mean when  
9 he talked about we should -- that -- that they have  
10 safeguards in place that should have prevented our  
11 investigator from going beyond the scope of the  
12 project?

13 A So, my understanding was that they had an  
14 employee or an investigator who had -- who had gone  
15 beyond or gone rogue -- I think they used the term  
16 "rogue" -- and not followed their -- their internal  
17 procedures and was operating without supervision.

18 Q In what manner did the employee go rogue?

19 A I don't know the specifics.

20 Q They never told you?

21 A Not that I recall.

22 Q You never formulated a belief as to how the  
23 employee went rogue?

24 A The -- my -- my understanding is that the  
25 employee was -- had gone beyond the scope of the -- of

1 the protocols that Ergo had in place, and was acting  
2 on his -- on his or her own without supervision.

3 Q In what manner did the employee go beyond the  
4 scope of the protocols that Ergo had in place?

5 A I don't know.

6 Q You weren't curious, when they told you --  
7 when they sent you this e-mail, about how the employee  
8 went beyond the scope of the project that Uber  
9 commissioned?

10 A Was I curious?

11 I think -- yeah, I suppose I was -- I don't  
12 recall being curious.

13 Q Did you ever find out how the employee went  
14 beyond the scope of the project?

15 A Yes.

16 Q When?

17 A In connection with this letter.

18 Q When did you first learn about how the  
19 employee went beyond the scope of the project?

20 A Oh, I'm -- I'm sorry. How they -- when did I  
21 first learn?

22 On -- again, my understanding was that the  
23 employee was acting without supervision and had  
24 breached internal protocols that Ergo had in place.  
25 So yeah, that's --

1 And when did I understand that?

2 It would have been around this time,  
3 February 24th.

4 Q Okay. And I want to know: What specifically  
5 was your understanding of what the employee did that  
6 breached the protocols at Ergo?

7 MR. HANNA: Objection; asked and answered.

8 THE WITNESS: Yeah, I don't have that  
9 specifically with the -- I don't know the protocols or  
10 the breach.

11 MR. BRIODY: Okay.

12 Q Do you have an understanding today of what --  
13 and I'm not talking about back then; as we sit here  
14 today -- of what the employee did that was rogue at  
15 Ergo?

16 MR. HANNA: Objection to the form of the  
17 question.

18 THE WITNESS: He wasn't following the  
19 internal protocols and was acting without supervision.

20 MR. BRIODY: Q. What protocols was the --  
21 the investigator not following?

22 A Ergo's protocols.

23 Q Relating to what?

24 A I don't know.

25 Q That never came up in your discussions with

1 Ergo?

2 They just said, "He's violating internal  
3 protocols," and you said, "Okay"?

4 MR. HANNA: Objection to the form of the  
5 question; misstates testimony.

6 THE WITNESS: So I -- I don't recall that  
7 specific exchange as you have characterized it.

8 MR. BRIODY: Okay. Well, I'm just doing my  
9 exchange by way of example.

10 Q Tell me the exchange that you had with Ergo  
11 with respect to the protocols that this rogue employee  
12 supposedly breached.

13 A So, I don't know what those protocols were.  
14 The details were not discussed. An employee had --  
15 they -- Ergo explained to me -- I believe it was Todd  
16 who had said they had an employee who was operating  
17 without supervision and had gone beyond and breached  
18 their internal protocols.

19 Q Okay. Let's take a step back.

20 Beyond the scope of the project. He doesn't  
21 say that they did something in breach of internal  
22 protocols. It said scope of the project; right?

23 That's what he wrote you?

24 A Yeah, that's what it says.

25 Q Okay. What about the scope of the project

1 did the investigator supposedly ignore?

2 A I -- I don't have that information.

3 Mr. Egeland probably would.

4 Q As the company that obtained Ergo to perform  
5 the investigation, you have no understanding of what  
6 aspect of the project that you commissioned that they  
7 went beyond the scope of?

8 MR. HANNA: Objection to the form of the  
9 question.

10 THE WITNESS: I -- I didn't commission this.

11 So I -- I would expect -- I don't know. I  
12 haven't read their internal protocols. I don't know  
13 what their internal protocols are.

14 MR. BRIODY: Right.

15 Q But you had discussions with Ergo, after  
16 January 19th, concerning the Ergo investigation of  
17 Mr. Meyer; correct?

18 A Correct.

19 Q Okay. And in those discussions with Ergo  
20 about the investigation of Mr. Meyer, it came up that  
21 the investigator went beyond the scope of the project;  
22 right?

23 A Correct.

24 Q As the person from Uber who was handling  
25 those discussions with Ergo, your -- your testimony is